



**U.S. Army Corps  
Of Engineers**  
Norfolk District

**Second Annual Review  
of the Norfolk District's  
State Program General Permit  
(SPGP-01)**

**December 2004**

## Table of Contents

	Page
Executive Summary	1
Introduction	2-4
DEQ and Corps Data on Permit Actions, Wetland and Stream Impacts Requested and Authorized and Mitigation Required	5-9
Geographic Distribution of Permit Actions, Wetland and Stream Impacts and Mitigation Required	10-12
Summary	13-14

## **Executive Summary**

On October 4, 2002, the Norfolk District, Corps of Engineers (Corps) issued a State Program General Permit (SPGP-01) for the discharge of dredged and/or fill material in nontidal wetlands and waters associated with residential, commercial, and institutional developments and linear transportation projects within the geographic limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps. SPGP-01 became effective on November 1, 2002. At that time, we also suspended Corps Nationwide Permit 14 and 39 where they apply to nontidal waters. In February 2004, we issued the first annual report on SPGP-01.

To determine the effectiveness and to evaluate the extent of the cumulative impacts of SPGP-01, the Corps committed to conducting an annual review. As part of this review, we have held regional meetings between the Corps and the Virginia Department of Environmental Quality staff to review a random sample of projects where the Virginia Department of Environmental Quality (DEQ) took the lead, to address policy or procedural issues, and to gain their insights on any changes they would recommend to SPGP-01. We also have scheduled a meeting for December 8, 2004 at 10:00 with the stakeholders who assisted in the development of SPGP-01 and any other interested parties at the James City County Community Center in Longhill Road to obtain their comments. We have issued a public notice inviting the public to comment on this second annual report.

After reviewing all comments received, we will then decide what, if any, changes to propose to SPGP-01. If we propose to modify SPGP-01, we will issue a public notice to provide the public and pertinent agencies with an opportunity to submit comments. After fully considering all comments received, we will complete our public interest review and advise the public through the issuance of a public notice of any modifications to SPGP-01. During this review process, SPGP-01 will remain in effect as revised on September 25, 2003.

## **Introduction**

When the Corps issued the SPGP-01 in October 2002, we committed to preparing annual reports. The reports would assess the effectiveness of SPGP-01 and evaluate the extent of its cumulative impacts. The report would also review similar information related to the Virginia Department of Environmental Quality's (DEQ) nontidal wetlands program. The Norfolk District's SPGP-01 includes the following activities:

### **Residential, Commercial & Institutional Developments**

Affecting less than 1/10 acre of nontidal wetlands and less than 300 linear feet of stream bed (Category A);

affecting up to 1/2 acre of nontidal wetland and/or no more than to 300 linear feet of stream bed (Category B); and

affecting up to 1/2 and 1 acre of nontidal wetland and/or between 300 and 2,000 linear feet of stream bed (Category C).

### **Linear Transportation Projects**

affecting no more 1/10 acre of nontidal wetlands and waters per crossing (Category A) and

affecting between 1/10 and 1/3 acre of wetlands and waters per crossing (Category B).

Specifically, the report provides data on the type, number and acreage of wetland and linear feet of stream impacts requested and authorized, the mitigation required, and the geographic distribution of the authorized impacts. This report will be advertised by public notice to provide an opportunity for the public, agencies, and interested organizations to submit comments.

The Corps has scheduled a meeting on December 8, 2004 with the DEQ, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service, the original stakeholders who assisted in the development of the SPGP-01 along with other interested parties to review the DEQ's implementation of the portion of the program where they are lead agency as well as the overall effectiveness of the SPGP. Based on review of the comments, the Corps will then decide what, if any, changes to propose to the SPGP. If the Corps proposes to modify the SPGP, it will issue a public notice and request comments. After fully considering all comments received, the Corps will complete its public interest review and advise the public through the issuance of a public notice of the modifications to the SPGP. During this review process, the SPGP will remain in effect as issued on September 25, 2003.

## Historical Perspective

To provide an historical perspective and a means of comparison, the tables below outline the requested and authorized impacts, and mitigation required for permits issued by the Corps under Nationwide Permits 39 and 14 in FY 2000, 2001, and 2002.

### Nationwide Permit 39 verifications for impacts to less than 0.1 acre of nontidal wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduction	Wetland restoration/ creation/ bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	19	1.68	0.68	40.4%	0.1	1.24	0
2001	109	11.86	6.32	46.7%	1.05	18.77	\$9,274
2002	130	14.81	5.97	59.7%	3.71	40.12	\$14,307

Reduction achieved on 20% of the projects in FY 2000, 4.1% of the projects in FY 2001, and 11.5% of the projects in FY 2002.

Mitigation required on 30% of the projects in FY 2000, 24.6% of the projects in FY 2001, and 42.3% of the projects in FY 2002.

### Nationwide Permit 39 verifications for impacts to between 0.10 & 0.50 acre of nontidal wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduction	Wetland restoration/ creation/ bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	22	5.59	4.87	12.8%	4.64	10.8	0
2001	108	34.65	27.9	19.4%	23.15	146.23	\$228,931
2002	130	45.84	33.70	26.4%	34.33	175.5	\$712,305

Reduction achieved on 18.7% of the projects in FY 2000, 19.2% of the projects in FY 2001, and 18.1% of the projects in FY 2002.

Mitigation required on 68.8% of the projects in FY 2000, 83.1% of the projects in FY 2001, and 82.9% of the projects in FY 2002.

Nationwide 14 verifications for impacts to less than 1/3 acre of wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduction	Wetland restoration/creation/bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	124	6.92	6.86	0.86%	2.88	1.2	\$2,389
2001	162	8.14	7.26	10.8%	4.3	27.07	\$171,863
2002	172	12.36	11.01	10.9%	9.81	16.75	\$39,286

Reduction achieved on 2.4% projects in FY 2000, 5.5% of the projects in FY 2001, and on 2.9% of the projects in FY 2002.

Mitigation required on 28.2% of the projects in FY 2000, on 35.8% projects in FY 2001, and on 23.2% of the projects in FY 2002.

**DEQ Data for all Water Protection General Permits for Commercial, Residential, & Institutional Developments Issued between January 1, 2004 and October 31, 2004 on Projects Impacting Less Than ½ acre of Nontidal Wetlands or Less Than 300 Linear Feet of Stream (Category A and B)**

	Category A	Category B
Number of Permits Issued	125	43
Acres of Wetland impacts requested	Forested: 5.208 Shrub Scrub: 0.422 Emergent: 1.342	Forested: 8.151 Shrub Scrub: 1.02 Emergent: 2.97
Acres of wetland impacts authorized	Forested: 4.476 Shrub Scrub: 0.402 Emergent: 1.342	Forested: 7.486 Shrub Scrub: 0.964 Emergent: 2.97
Acres of wetland mitigation required*	Forested: 3.557 Shrub Scrub: 0.435 Emergent: 0.4 Trust Fund: 0.44	Forested: 14.68 Shrub Scrub: 1.953 Emergent: 3.26 Trust Fund: 3.58
Linear feet of stream impacts requested	11,968	4,716
Linear feet of stream impacts authorized	11,349	4,078
Linear feet of stream mitigation required	1,376*	966 (Trust Fund 1,610(Preservation) 0 (Restoration)

\* Under DEQ's present regulations, no mitigation is required for impacts to less 1/10 acre of waters or wetlands. Changes to DEQ's regulations will be finalized in the next few months that will require mitigation for impacts to more than 300 linear feet of stream.

**Corps Data for SPGP Residential, Commercial & Institutional Activities Affecting up to 1 acre of Nontidal Wetlands and Between 300 and 2,000 Linear Feet of Stream Bed for Actions Taken between January 1, 2004 and October 31, 2004 (Category C)**

Number of Permits Issued	55
Acres of wetland impacts requested	Forested: 17.94 acres Shrub Scrub: 1.09 acre Emergent: 3.37 acres
Acres of wetland impacts authorized	Forested: 15.58 acres Shrub Scrub: 0.96 acre Emergent: 3.37 acres
Acres of wetland mitigation required through creation, restoration, or purchase of credits from an approved mitigation bank	Forested: 29.04 acres Shrub Scrub: 1.11 acres Emergent: 2.89 acres
Acres of wetland mitigation required through a contribution to the VA Aquatic Resources Trust Fund & the amount of the contributions	Contributions: \$100,838
Acres of wetland preservation required to mitigate authorized impacts	Forested: 62.83 acres
Linear feet of stream impacts requested	31,654 linear feet
Linear feet of stream impacts authorized	26,206 linear feet
Linear feet of stream mitigation required through purchase of credits from an approved mitigation bank, restoration , or creation	Restoration: 21,325 linear feet Preservation: 13,327 linear feet
Mitigation required through a contribution to the VA Aquatic Resources Trust Fund & the amount of the contributions	\$734,299 (this equates to approximately 7,400 linear feet of stream restoration)



**DEQ Data for SPGP Residential, Commercial & Institutional Activities Affecting up to 1 acre of Nontidal Wetlands and Between 300 and 2,000 Linear Feet of Stream Bed for Actions Taken between January 1, 2004 and October 31, 2004 (Category C)**

Number of Permits Issued	61
Acres of wetland impacts requested	Forested: 21.157 acres Shrub Scrub: 2.241 acres Emergent: 6.93 acres
Acres of wetland impacts authorized	Forested: 15.93 acres Shrub Scrub: 1.863 acre Emergent: 6.702 acres
Acres of wetland mitigation required through creation, restoration, or purchase of credits from an approved mitigation bank	Forested: 49.304 acres Shrub Scrub: 2.51 acres Emergent: 9.817 acres
Acres of wetland mitigation required through a contribution to the VA Aquatic Resources Trust Fund & the amount of the contributions	1.92
Linear feet of stream impacts requested	27,564 linear feet
Linear feet of stream impacts authorized	25,250 linear feet
Linear feet of stream mitigation required through purchase of credits from an approved mitigation bank, restoration , or creation	Restoration: 7,499 linear feet Preservation: 45,617 linear feet
Mitigation required through a contribution to the VA Aquatic Resources Trust Fund	6,806 linear feet

**Data for SPGP Linear Transportation Projects, Category A and B  
for Actions Taken Between January 1, 2004 and October 31, 2004**

During the period 184 projects (174 under Category A and 10 under Category B) were authorized under SPGP-01. All unavoidable impacts to wetlands were compensated for through the purchase of wetland credits or contributions to the Virginia Wetland Restoration Trust Fund. The Corps only reviews mitigation plans for linear transportation projects with impacts to greater than 300 linear feet of stream bed. During the period, there were seven projects proposing impacts to more than 300 linear feet of stream bed. Total requested and authorized impacts to wetlands and streams and the required mitigation were as follows:

**DEQ Category A Nontidal Wetlands Data**

	Requested Impacts (acres)	Authorized Impacts (acres)	Mitigation required (acres)
Forested wetlands	0.0208	0.0208	0.398
Scrub-Shrub Wetlands	0	0	0
Emergent Wetlands	0.212	0.212	0.203
			Total includes 0.25 to Trust Fund

**DEQ Category B Nontidal Wetland Data**

	Requested Impacts (acres)	Authorized Impacts (acres)	Mitigation required (acres)
Forested wetlands	1.26	1.09	2.12
Scrub-Shrub Wetlands	0	0	0
Emergent Wetlands	1.087	1.077	1.387
			Total includes 0.853 to Trust Fund

**DEQ Category A Nontidal Stream Data**

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation required (linear feet)
8,372	8,372	0
		Total includes 0 to Trust Fund

**Under DEQ's present regulations, no mitigation is required for impacts to less 1/10 acre of waters or wetlands. Changes to DEQ's regulations will be finalized in the next few months that will require mitigation for impacts to more than 300 linear feet of stream.**

DEQ Category B Nontidal Stream Data

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation required (linear feet)
2,374	1,301	1369
		Total includes 100 to Trust Fund; 0 preservation; and 1020 restoration

Corps Category B Linear Transportation Projects with Impacts to  
>300 Linear Feet of Stream Bed

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation required (linear feet or dollar amount)
5,086	4,826	8,700 preservation 1,340 restoration \$116,658 (Trust Fund)

**SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Organized by Locality Between January 1, 2004 & October 31, 2004 (only includes Corps permit actions impacting greater than ½ acre of nontidal wetlands)**

Locality	Number of Permits	Acreage of Nontidal Wetland Impacts requested	Acreage of Nontidal Wetland Impacts Authorized	Acres of creation	Acres of Res-toration	Acres of Preserva-tion	Trust Fund
Virginia Beach	1	F: 0.88	F: 0.88	F: 1.34			
Chesapeake	1	F: 0.662	F: 0.662	F: 1.14			
Newport News	1	F: 0.39	F: 0.39	F: 0.78			
Suffolk	1	F: 0.39	F: 0.273	F: 0.273		19.65	
James City County	1	F: 0.93	F: 0.93	F: 0.93		26.47	
Henrico Co.	9	F: 6.49 S: 0.60	F: 5.3 S: 0.46	F: 10.3 S: 0.69		11.64	
Hanover County	2	F: 0.45 E: 0.35	F: 0.37 E: 0.35	F: 0.79 E: 0.35			
Chesterfield Co.	4	F: 1.05	F: 0.45	F: 1.89	0.09		
City of Richmond	1	F: 0.02	F: 0.02				
Spotsylvania Co.	1	F: 0.45	F: 0.45	F: 0.90			
Stafford Co.	3	F: 1.27 E: 0.11	F: 0.53 E: 0.11	F: 0.47			\$14,450
King George Co.	1	F: 0.08	F: 0.08				
Orange County	1	F: 0.69	F: 0.69	F: 1.32		1.94	
Prince William Co.	4	F: 2.66 S: 0.01 E: 0.05	F: 2.66 S: 0.01 E: 0.05	F: 5.31 S: 0.01 E: 0.05			
Culpeper Co.	2	F: 0.46 E: 0.445	F: 0.46 E: 0.445	F: 0.92 E: 0.36			
Carroll County	1	S: 0.17	S: 0.17	S: 9.17		3.13	
Fauquier Co.	3	F: 0.44 S: 0.28 E: 1.34	F: 0.44 S: 0.28 E: 1.34	F: 0.69 S: 0.18 E: 1.05			\$86,388
Warren County	1	E: 0.70	E: 0.70	E: 0.70			
Loudoun Co.	2	F: 0.25 S: 0.03 E: 0.06	F: 0.25 S: 0.03 E: 0.06	F: 0.50 S: 0.05 E: 0.06			
Fairfax Co.	2	F: 0.35 S: 0.01 E: 0.32	F: 0.35 S: 0.01 E: 0.32	F: 0.70 S: 0.015 E: 0.32			

F= Forested    S=Scrub-shrub    E=Emergent

**SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Organized by Hydrologic Unit Code (HUC) Between January 1, 2004 & October 31, 2004 (only includes Corps permit actions impacting greater than ½ acre of nontidal wetlands)**

HUC	Number of Permits	Acreage of Nontidal Wetland Impacts requested	Acreage of Nontidal Wetland Impacts Authorized	Acres of Creation/Restoration	Acres of Preservation	Trust Fund
02080208	1	F: 0.39	F: 0.273:	F: 0.273		
02080206	11	F: 6.30 SS: 0.59	F: 5.19 SS:	F: 9.35 SS:	38.15	
02080205	6	F: 2.5 S:0.06	F: 2.5 S: 0.06	F: 4.69 S: 0.09		
02080104	3	F: 0.72 E: 0.11	F: 0.72 E: 0.11	F: 0.98 E:		\$14,450
02080103	5	F: 1.98 S: 0.12 E: 1.00	F: 1.98 S: 0.12 E: 1.00	F: 3.39 S: 0.18 E: 1.05		
02070010	3	F: 0.90 S: 0.01 E: 0.32	F: 0.90 S: 0.01 E: 0.32	F: 1.81 S: 0.015 E: 0.32		
02070008	3	F: 0.36 S: 0.16 E: 0.35	F: 0.36 S: 0.16 E: 0.35:	F: 0.55 S: E: 0.06		\$86,388
02070007	1	E: 0.70	E: 0.70	E: 0.70		
03010205	1	F: 0.88	F: 0.88	F: 1.34		
02070011	5	F: 3.18 S: 0.01 E: 0.05	F: 3.18 S: 0.01 E: 0.05	F: 7.58 S: 0.02 E: 0.05	7.0	
02080207	2	F: 0.27	0.27	F: 0.54		
5050001	1	S: 0.17	S: 0.17	S: 0.36	3.13	

F= Forested    S=Scrub-shrub    E=Emergent

**SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Development Projects Based on the Number of Permits and Nontidal Stream Impacts Otganized by Locality Between January 1, 2004 & October 31, 2004 (only includes Corps permit actions impacting greater than 300 linear feet of stream bed)**

Locality	Number of Permits	Linear Footage of Stream Impacts requested	Linear Footage of Nontidal Stream Impacts authorized	Linear footage of Restora-tion	Linear footage of Preserva-tion	Trust Fund
Chesapeake	1	928	928	730		
Newport News	1	347	347	1200		
Suffolk	1	367	367			\$31,195
Henrico Co.	3	3,234	2,858	1,931		
Hanover Co.	1	460	361	361		
Chesterfield Co.	3	1,113	1,113	586		
Caroline Co.	1	700	700	1,100		
Spotsylvania Co.	2	1,009	1,009	296	1,317	
Stafford Co.	5	8,204	4,522		3,300	\$181,418
City of Fredericksburg	1	864	864		731	
King George Co.	1	342	342	682		
Prince William Co.	4	3,069	2,075	1,615		\$58,860
Culpeper Co.	1	400	400	300	867	
Carroll Co.	1	1,302	1,302		7,112	
Fauquier Co.	1	583	583	583		
Warren Co.	2	1,980	1,683	6,778		
Frederick Co.	1	300	300	300		
Loudoun Co.	3	3,649	3,649	4,863		\$197,230
Fairfax Co.	2	2,803	2,803			\$265,596

## Summary

1. For those residential, commercial and institutional development projects where both DEQ and the Corps make a permit decision (projects affecting between ½ and one acre of nontidal wetlands and between 300 and 2,000 linear feet of stream bed), both agencies reviewed the applications and issued permits. While we lack specific data, from our experience most of the avoidance and minimization occurs during the pre-application process. The additional avoidance and minimization measures incorporated into the plans at the application review stage are reflected in the differences between the requested impacts and the authorized impacts.
2. For linear transportation projects affecting less than 1/3 of acre of wetlands, DEQ required mitigation for all authorized impacts to wetlands, although mitigation is not required for impacts to less than 1/10 of an acre.
3. For linear transportation projects affecting less than 1/3 acre of wetlands or waters, but more than 300 linear feet of stream bed, the SPGP requires the applicant to submit a mitigation plan for the Corps' approval for the stream impacts. Seven projects were authorized with impacts exceeding 300 linear feet.
4. The pre-application process seems to work effectively by providing prospective applicants with wetlands/waters delineation confirmation and information relative to the presence or absence of historic properties and federal listed endangered/threatened species. However, to enhance our ability to provide constructive comments in the plan formation stage, we sent a letter in September 2004 to all known consultants in Virginia encouraging them to provide us with this opportunity. In addition, we have taken the initiative to improve coordination with localities and will be selectively attending their preliminary plan review staff meetings to provide our comments. We will also convey our comments to the project proponents and DEQ.
5. With a few exceptions, the Corps and DEQ appear to be applying similar review procedures to projects relative to avoidance, minimization, and compensatory wetland mitigation. The issue of stream mitigation is still an unresolved issue and is implemented differently within and between the two agencies. However, the two agencies are working together to resolve the situation.
6. The SPGP has allowed the Corps to refocus some its resources to other program responsibilities. Specifically, we have been able to perform more preapplication consultations, permit compliance review, and unauthorized activities investigations. The

chart below demonstrates this trend.

	# of site visits for unauthorized activities	# of compliance inspections	# of preapplication consultations
FY02	226	85	1292
FY03	315	111	1304
FY04	332	156	1684

In November 2004, we met with representatives of DEQ to compare our compliance and enforcement authorities and explore ways to reduce duplication in these areas. The Corps is also reviewing its enforcement and compliance program and is planning to make changes to enhance its effectiveness.





